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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of the Statement of Issues to Bar:) CRD ID NO.: 4138916
)
) OAH CASE NO.: 2017061012
HANSUELI, OVERTURF a.k.a. HANS)
OVERTURF,)
) SETTLEMENT AGREEMENT AND
Respondent.) STIPULATION TO FINAL DESIST AND
) REFRAIN ORDER AND SUSPENSION OF
) HANSUELI OVERTURF AKA HANS
) OVERTURF FROM ANY POSITION OF
) EMPLOYMENT, MANAGEMENT OR
) CONTROL OF ANY BROKER-DEALER OR
) INVESTMENT ADVISER
)

In the Matter of the Desist and Refrain Order) CRD ID NO.: 4138916
Against:)
) OAH CASE NO.: 2017061339
)
)
HANSUELI, OVERTURF a.k.a. HANS)
OVERTURF, OVERTURF FINANCIAL)
SERVICES, INC.)
) Hearing Dates: December 11 – 14, 2017
) Hearing Time: 9:00 a.m.
) Place: 1515 Clay Street, Suite 206
Respondent.) Oakland, California
) Assigned to: ALJ Michael A. Scarlett
)

1 This Settlement Agreement and Stipulation (Settlement Agreement) to Final Desist and
2 Refrain Order and Suspension is entered into by and between the Complainant, the Commissioner of
3 Business Oversight (Commissioner), and Respondent, Hansueli Overturf a.k.a. Hans Overturf
4 (hereinafter collectively the Parties), and is made with respect to the following facts.

5 **RECITALS**

6 A. The Commissioner, as head of the Department of Business Oversight (Department), is
7 authorized to administer and enforce the provisions of the Corporate Securities Law of 1968 (CSL)
8 (Corp. Code, § 25000 et seq.) and the regulations promulgated under title 10 of the California Code
9 of Regulations (Cal. Code Reg., tit.10, § 260.000 et seq.).

10 B. At all relevant times herein, Hansueli Overturf, a.k.a. Hans Overturf (Overturf) (CRD
11 no. 4138916) is the proprietor and president of Overturf Financial Services, Inc. (OFS), a suspended
12 California corporation. Overturf was also a registered representative employed by various investment
13 related firms, including Raymond James Financial Services, Inc., a licensed broker-dealer.

14 C. On July 18, 2016, the Commissioner issued a Desist and Refrain Order against
15 Overturf and OFS for violations of Corporations Code sections 25210 and 25216 for having engaged
16 in unlicensed broker-dealer activities (2016 D&R).

17 D. On August 31, 2016, the Commissioner issued a notice of intent to bar Overturf from
18 any position of employment, management or control of any broker-dealer or investment adviser
19 under Corporations Code section 25215 (Notice of Intent to Bar).

20 E. Overturf timely requested an administrative hearing to contest the 2016 D&R and
21 waived his right to an administrative hearing within 15 business days. Overturf also requested a
22 hearing on the Notice of Intent to Bar. Both matters have been consolidated and a consolidated
23 hearing is now set for December 11 through 14, 2017, before the Office of Administrative Hearings.

24 F. OFS has not challenged the 2016 D&R and the time to do so has now expired, and
25 therefore, the 2016 D&R is final as to OFS.

26 G. It is the intention and desire of the Parties at this time to resolve this matter without the
27 necessity of a hearing or other litigation.

1 H. The Commissioner finds that this action is appropriate, in the public interest, and
2 consistent with the purposes fairly intended by the policy and provisions of this law.

3 THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein,
4 the Parties agree and stipulate as follows:

5 **TERMS AND CONDITIONS**

6 1. Purpose. It is the intention and desire of the Parties to resolve these matters without
7 the necessity of a hearing or other litigation for the purpose of judicial economy and expediency and
8 to avoid the expense of a hearing and possible further court proceedings.

9 2. Finality of Settlement Agreement. Overturf hereby agrees to comply with this
10 Settlement Agreement and, further, agrees that this Settlement Agreement is final.

11 3. Finality of the Desist and Refrain Order Issued. Overturf acknowledges that the
12 Commissioner issued the 2016 D&R under Corporations Code section 25532. The 2016 D&R will
13 now be considered a final order.

14 4. Suspension Order. Overturf hereby agrees to a two-year suspension (Suspension
15 Order) from any position of employment, management, or control of any broker-dealer or investment
16 adviser, beginning on the effective date of this Settlement Agreement. Overturf acknowledges that,
17 from and after the date of the 2016 D&R Order through and including the effective date of this
18 Settlement Agreement, Overturf has not engaged in any activity prohibited thereby.

19 5. Application for Certification. Upon the expiration of the Suspension Order, should
20 Overturf choose to submit an application to the Commissioner to be certified as an investment adviser
21 in the State of California, in connection therewith, the Commissioner shall take into account the
22 entirety of Overturf's experience and background in accordance with the provisions of the CSL.

23 6. Waiver of Hearing Rights. Overturf acknowledges and agrees that this Settlement
24 Agreement shall have the effect of withdrawing his request for an administrative hearing in these
25 matters. Overturf acknowledges his right to an administrative hearing under the CSL in connection
26 with the 2016 D&R and the Notice of Intent to Bar, and hereby waives such right to a hearing and to
27 any reconsideration, appeal, or other rights which may be afforded him under the CSL, the
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1 Administrative Procedure Act (Govt. Code, § 11370 et seq.), or any other provision of law in
2 connection with these matters.

3 7. Full and Final Resolution. The Parties hereby acknowledge and agree that this
4 Settlement Agreement is intended to constitute a full, final, and complete resolution of the
5 Commissioner's investigation of the matters set forth herein and that no further proceedings or
6 actions will be brought by the Commissioner in connection with these matters under the CSL or any
7 other provision of law, excepting therefrom any proceeding or action if such proceeding or action is
8 based upon facts not presently known to the Commissioner or which were knowingly concealed from
9 the Commissioner by Overturf.

10 8. Binding. This Settlement Agreement is binding on all heirs, assigns, and successors in
11 interest.

12 9. Commissioner's Duties. The Parties further acknowledge and agree that nothing
13 contained in this Settlement Agreement shall operate to limit the Commissioner's ability to assist any
14 other agency (city, county, state, or federal) with any prosecution, administrative, civil or criminal,
15 brought by any such agency against Overturf or any other person based upon any of the activities
16 alleged in these matters or otherwise.

17 10. Third-Party Actions. It is the intent and understanding between the Parties that this
18 Settlement Agreement does not create any private rights or remedies against Overturf, create any
19 liability for Overturf or limit defenses of Overturf for any person or entity not a party to this
20 Settlement Agreement.

21 11. Future Actions by Commissioner. This Settlement Agreement may be revoked, and
22 the Commissioner may pursue any and all remedies available under law against Overturf if the
23 Commissioner later discovers that Overturf knowingly or willfully withheld information used for and
24 relied upon in this Settlement Agreement. Further, Overturf agrees that this Settlement Agreement
25 does not resolve any penalties that may be assessed by the Commissioner upon discovery of new and
26 further violations of the CSL.

27 12. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
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1 has received independent advice from its attorney(s) or representatives with respect to the advisability
2 of executing this Settlement Agreement.

3 13. Waiver, Modification, and Qualified Integration. The waiver of any provision of this
4 Settlement Agreement shall not operate to waive any other provision set forth herein. No waiver,
5 amendment, or modification of this Settlement Agreement shall be valid or binding to any extent
6 unless it is in writing and signed by all of the parties affected by it.

7 14. Headings. The headings in this Settlement Agreement are for convenience only and
8 do not affect its meaning.

9 15. Governing Law. This Settlement Agreement will be governed by and construed and
10 enforced in accordance with the laws of the State of California.

11 16. Counterparts. The Parties agree that this Settlement Agreement may be executed in
12 one or more separate counterparts, each of which when so executed, shall be deemed an original.
13 Such counterparts shall together constitute and be one and the same instrument.

14 17. Full Integration. Each of the parties represents, warrants, and agrees that in executing
15 this Settlement Agreement it has placed no reliance on any statement, representation, or promise of
16 any other party, or any other person or entity not expressly set forth herein, or upon the failure of any
17 party or any other person or entity to make any statement, representation or disclosure of anything
18 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in
19 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
20 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
21 Settlement Agreement.

22 18. No Presumption Against Drafting Party. In that the Parties have had the opportunity
23 to draft, review and edit the language of this Settlement Agreement, no presumption for or against
24 any party arising out of drafting all or any part of this Settlement Agreement will be applied in any
25 action relating to, connected to, or involving this Settlement Agreement. Accordingly, the Parties
26 waive the benefit of Civil Code section 1654 and any successor or amended statute, providing that in
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cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

19. Voluntary Agreement. Overturf enters into this Settlement Agreement voluntarily and without coercion and acknowledges that no promises, threats, or assurances have been made by the Commissioner or any officer, or agent thereof, about this Settlement Agreement.

20. Effective Date. This Settlement Agreement shall not become effective until signed by all parties and delivered by the Commissioner's counsel by email to Overturf or Overturf's Counsel at:

Randolf W. Katz, Esq.
Baker & Hostetler LLP
600 Anton Blvd., Suite 900
Costa Mesa, California 92626
e-mail: rwkatz@bakerlaw.com

21. Notice. Any notices required under this Settlement Agreement shall be provided to each party at the following addresses:

If to Respondent: Hansueli Overturf
Lahngasse 10
8215 Hallau
Switzerland

If to the Commissioner: Marlou de Luna, Senior Counsel
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013

22. Public Record. Overturf acknowledges that this Settlement Agreement is a public record.

23. Authority to Execute. Each signatory hereto covenants that he or she possesses all necessary capacity and authority to sign and enter into this Settlement Agreement.

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1 IN WITNESS WHEREOF, the Parties hereto have approved and executed this Settlement
2 Agreement on the dates set forth opposite their respective signatures.

3 Dated: 12/7/17 JAN LYNN OWEN
4 Commissioner of Business Oversight

5
6 By _____
7 MARY ANN SMITH
8 Deputy Commissioner
9 Enforcement Division

10 Dated: 12/7/17 HANSUELI OVERTURF

11
12 By _____
13 HANSUELI OVERTURF a.k.a. HANS OVERTURF
14
15
16

17 Approved as to Form and Content
18
19

20 By _____
21 Randolph W. Katz
22 Baker Hostetler
23 Counsel for Hansueli Overturf
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